



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 9, 1998

Ms. Marva M. Gay
Assistant County Attorney
County of Harris
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR98-2133

Dear Ms. Gay:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117917.

The Harris County Judge received a request for a "letter of claim from Attorney Larry P. McDougal that would have been sent in the month of June or July 1995." You explain to this office that you have found no claim letter that is responsive to the request. You also state that "no record of an appearance by Attorney Larry P. McDougal during June or July 1995 was found in the records of the Harris County Commissioners' Court." You assert that if a letter did exist it would be protected by section 552.103 of the Government Code.

The Open Records Act does not require a governmental body to make available information which does not exist nor does it require a governmental body to prepare new information. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 (1992), 362 (1983). A governmental body must, nevertheless, make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975); see Gov't Code § 552.353 (providing penalties for failure to permit access to public information). Although you state that the claim letter does not exist, it may be related to pending litigation. *McDougal v. Harris County*, No. 95-037681 (113th Dist. Ct., Harris County, Tex., filed Aug. 3, 1995). Because you represent the requested claim letter does not exist, you need not comply with the request.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive style with a large, stylized "D" and "B".

Don Ballard
Assistant Attorney General
Open Records Division

JDB/nc

Ref: ID# 117917

cc: Mr. James E. McDougal
110 Brookhaven
Conroe, Texas 77378
(w/o enclosures)